

REMARKS

Claims 1-5, 8, 15-20, and 37-40 constitute the pending claims in this application. Applicants respectfully request reconsideration in view of the following remarks. Issues raised by the Examiner will be addressed below in the order they appear in the prior Office Action.

Claim rejections under 35 U.S.C. § 102

Claims 1-5, 8, 15-20, and 37-40 are rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Golub et al. (U.S. Patent No. 6,647,341). Specifically, the Examiner asserts that

“Golub et al teach a method of classifying a lymphoma by determining a gene expression profile of gene expression products from two or more informative genes wherein gene expression products are isolated from one or more cells (see whole doc. Esp. col.2 line 31 & line 31 col.1 line 45-50) and wherein the gene expression profile is correlated with treatment outcome thereby classifying sample with treatment outcome (see col. 8 line 15-24).” See Office Action, the paragraph bridging pages 2 and 3).

In response, Applicants provide an unexecuted Declaration of Dr. Pablo Tamayo under 37 CFR § 1.132 to show that Dr. Tamayo, Golub, and Lander “conceived or invented the subject matter disclosed in the patent or application publication and relied on in the rejection” (M.P.E.P. 715.01(a)). An executed copy of the Declaration will be filed as soon as it is received by the undersigned. Applicants submit that this Declaration under 37 CFR § 1.132 provides a satisfactory showing that “the reference discloses subject matter derived from the applicant rather than invented by the author or patentee notwithstanding the authorship of the article or the inventorship of the patent” (M.P.E.P. 716.10). Thus, this Declaration renders this reference unavailable as prior art against this application. Consequently, Applicants respectfully request that the rejection of the claims under 35 U.S.C. § 102(e) be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should an extension of time be required, Applicants hereby petition for same and request that the extension

fee and any other fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945.**

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